

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

IT IS HEREBY ORDERED that all parties are to use reasonable efforts to work together to coordinate discovery between the Direct Purchaser Actions and the Indirect Purchaser Actions to prevent duplication of effort, to promote the efficient and timely resolution of the case, and to permit all parties to conduct whatever discovery is reasonably necessary to permit a fair resolution of the cases. Accordingly, the following procedures for discovery shall be adopted by the Court pursuant to the stipulation of all parties.

A. Definitions

1. The MDL Proceeding: means MDL No. 1486, In re DRAM Antitrust Litigation,
in United States District Court, Northern District of California.

2. The Direct Actions: means those direct purchaser actions governed by Pretrial Order No. 2;

3. The Indirect Actions: means those indirect purchaser actions governed by Pretrial Order No. 2;

1 4. The MDL Court: means The United States District Court for the Northern
2 District of California.

3 5. The Stipulated Protective Order: means the Stipulation and Protective Order,
4 signed by the Honorable Phyllis J. Hamilton and filed on July 11, 2003, MDL No. 1486, In re
5 DRAM Antitrust Litigation ("Protective Order") and as modified by the July 14, 2005 Stipulated
6 Protective Order Limiting Certain Discovery.
7

8 **B. Coordination of Discovery**

9 6. Discovery in the Direct and Indirect Actions shall be coordinated through the
10 Lead Counsel appointed by the Court in Pretrial Order No. 2, or their designees. Defendants in
11 these actions shall designate counsel to coordinate the discovery proceedings with Lead Counsel.
12

13 7. Lead Counsel, or their designees, shall no later than ten (10) days after the entry
14 of this Order, serve upon all other Lead Counsel, or their designees, all discovery served prior to
15 the date of this order in any of the Direct or Indirect Actions.

16 8. Any future joint discovery requests, including written discovery, deposition
17 notices, or subpoenas served in the MDL Proceeding shall be served on Lead Counsel and
18 Liaison Counsel. Lead Counsel and Liaison Counsel shall be the only plaintiffs counsel served
19 with any discovery.
20

21 9. Service for all discovery shall be deemed effective if served on all Lead Counsel,
22 Liaison Counsel, and one designated counsel per defendant either (a) via the MDL Court's e-
23 filing system; (b) personally by hand delivery; or (c) by email (PDF) or facsimile and U.S. Mail.
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25
26

1 **C. Discovery**

2 10. All discovery in the MDL Proceeding shall be conducted in accordance with the
3 Federal Rules of Civil Procedure, the Local Rules of the Northern District of California and
4 Orders of the MDL Court.

5 11. Lead Counsel or their designees shall be entitled to participate in discovery in the
6 MDL Proceeding as set forth in this Order. All parties shall engage in their best efforts to
7 efficiently conduct discovery without duplication.

9 **D. Deposition Procedure**

10 12. Lead Counsel, or their designees, in the Direct and Indirect Actions, shall meet
11 and confer in good faith to coordinate so that the depositions of Defendants' witnesses shall be
12 jointly scheduled, noticed, and taken. Defendants shall also meet and confer in good faith to
13 coordinate so that the depositions of plaintiffs' witnesses shall be jointly scheduled, noticed, and
14 taken. Unless otherwise agreed upon after conferring in good faith, questioning during
15 depositions shall occur first by counsel in the Direct Actions, followed by the Indirect Actions.
16 This does not apply to the already noticed Rule 30(b)(6) depositions.

17 13. Counsel representing any party in the MDL Proceeding may obtain directly from
18 the court reporter at counsel's own expense a transcript of any deposition.

19 14. All counsel shall use their best efforts to conduct examinations that are not
20 duplicative of the examination of other counsel.

21 15. Neither the Defendants' nor the Plaintiffs' witnesses shall be deposed more than
22 once absent agreement of the parties or by motion for good cause shown. Notwithstanding this
23 limitation, a witness designated by a party for a Rule 30(b)(6) deposition on identified topics
24 may also be deposed in a separate deposition as a fact witness on other topics.

1 16. During the depositions, no objections shall be made except those as to the form of
2 the question, any matter of privilege or work product or to enforce an order of the MDL Court,
3 and speaking objections are expressly prohibited. Any objection made by one party shall be
4 considered an objection made by all other similarly situated parties. All other objections are
5 preserved and not waived. Instructions not to answer shall be limited as provided in Fed. R. Civ.
6 P. 30(d)(1).

7

8 **E. Written Discovery Guidelines**

9 17. Written discovery served jointly in the MDL Proceeding in the Direct Actions
10 shall be deemed to have been served in the Indirect Actions. Written discovery served jointly in
11 the Indirect Actions shall be deemed to have been served in the Direct Action. Lead Counsel, or
12 their designees, shall meet and confer in good faith in an effort to propound joint written
13 discovery requests, but to the extent separate written discovery is served, the Direct and Indirect
14 Plaintiffs shall use their best efforts to not duplicate interrogatories, requests for admission, and
15 requests for documents. The parties agree that duplication is a proper objection to written
16 discovery requests.

17

18 **F. Discovery Dispute Resolution**

19 18. The parties shall meet and confer in good faith to resolve any discovery dispute
20 before seeking resolution by the Court. Any unresolved dispute shall be presented in accordance
21 with the Federal Rules of Civil Procedure, the Local Rules of the Northern District of California
22 and any applicable Orders of the MDL Court. These procedures may be changed for individual
23 disputes or generally, in whole or in part, by agreement of the parties approved by the MDL
24 Court, or upon further order of the MDL Court.

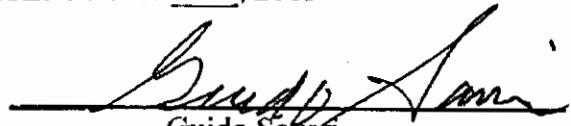
1 **G. Use of Discovery Obtained in the MDL Proceeding**

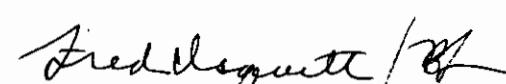
2 19. Counsel representing any party in the MDL Proceeding shall be entitled to receive
3 copies of all discovery (at their own expense) taken in the MDL Proceeding.

4 20. By participating in this joint discovery, no party waives any objection to the use
5 (in any form) of any discovery obtained in the Direct or Indirect Actions. Nothing contained in
6 this Order shall constitute or be deemed to constitute a waiver of any objection of any defendant
7 or plaintiff to the admissibility at trial of any documents, deposition testimony or exhibits, or
8 written discovery responses provided or obtained in accordance with the Order, whether on
9 grounds of relevance, materiality, or any other basis, and all such objections are specifically
10 preserved. The fact that discovery was taken jointly shall have no bearing on its use,
11 admissibility, relevance or credibility in any subsequent proceedings.

12 **STIPULATED AND AGREED TO BY:**

13 DATE: October _____, 2005

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G. Use of Discovery Obtained in the MDL Proceeding

19. Counsel representing any party in the MDL Proceeding shall be entitled to receive copies of all discovery (at their own expense) taken in the MDL Proceeding.

20. By participating in this joint discovery, no party waives any objection to the use (in any form) of any discovery obtained in the Direct or Indirect Actions. Nothing contained in this Order shall constitute or be deemed to constitute a waiver of any objection of any defendant or plaintiff to the admissibility at trial of any documents, deposition testimony or exhibits, or written discovery responses provided or obtained in accordance with the Order, whether on grounds of relevance, materiality, or any other basis, and all such objections are specifically preserved. The fact that discovery was taken jointly shall have no bearing on its use, admissibility, relevance or credibility in any subsequent proceedings.

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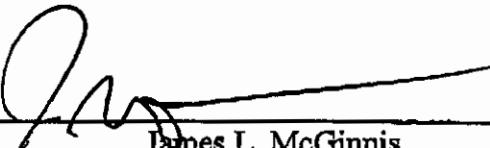
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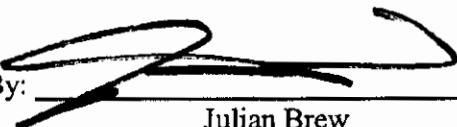
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19 Infineon Technologies AG**

20 IT IS SO ORDERED.
21

22 Dated: 10/26/05


23 Phyllis J. Hamilton
24 United States District Judge
25 Northern District of California
26

CERTIFICATE OF SERVICE

I am employed in the County of San Mateo, State of California. I am a citizen of the United States, over the age of 18 years and not a party to the within cause. My business address is the Law Offices of Cotchett, Pitre, Simon & McCarthy, San Francisco Airport Office Center, 840 Malcolm Road, Suite 200, Burlingame, California, 94010.

On October 19, 2005, I served the following document(s) on each person in the manner described below:

**STIPULATION AND [PROPOSED] ORDER RE COORDINATION
OF DISCOVERY**

X **BY ECF:** By USDC Live System-Document Filing System: on all interested parties registered for e-filing.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed at Burlingame, California, on October 19, 2005.

JoAnne Lein
JoAnne Lein